

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE WESTERN DISTRICT OF MISSOURI
 WESTERN DIVISION

4 UNITED STATES OF AMERICA,) Case No. 10-00025-01-CR-W-HFS
)
5 Plaintiff,) Kansas City, Missouri
) February 17, 2010
6 v.)
)
7 KHALID QUAZZANI,)
)
8 Defendant.)
)
_____)

9
10 TRANSCRIPT OF DETENTION AND ARRAIGNMENT HEARING
11 BEFORE THE HONORABLE SARAH W. HAYS
 UNITED STATES MAGISTRATE JUDGE

12 APPEARANCES:

13 For the Plaintiff: David Ketchmark, Esq.
 Brian Casey, Esq.
 Alex Mendel, Esq.
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1 (Court in Session at 2:11 p.m.)

2 THE COURT: All right. Good afternoon.

3 MR. KETCHMARK: Good afternoon.

4 MR. FOWLER: Good afternoon.

5 THE COURT: We're here on Case No. 10-0025. If counsel
6 could state their appearance for the record.

7 MR. KETCHMARK: David Ketchmark, Alex Mendel and Brian
8 Casey on behalf of the United States, Your Honor.

9 MR. FOWLER: May it please the Court, Your Honor? Mr.
10 Quazzani appears in person and by and through Robin Fowler.

11 THE COURT: We have scheduled a detention hearing today
12 and the arraignment. And turning to detention issues, we had a
13 meeting in my office here just a few moments ago with all counsel
14 involved. It's my understanding that the defendant wants to ask
15 for a continuance of the detention hearing.

16 MR. FOWLER: That's correct, Your Honor.

17 THE COURT: Okay. And what I told the parties is
18 because we've had this issue come up increasingly recently, and
19 so, I've tried to take a look at it, I think from here on out,
20 because the statute talks about having the hearing within three
21 days of the filing of the motion or five days at the defendant's
22 request, what I'd like to do is go ahead and start the detention
23 hearing. To the extent the parties then want an opportunity to
24 present additional evidence, I'll take the matter under
25 advisement and continue it until a date we agree on. And I think

1 we've talked about March 1st. And so, I would like to, at least,
2 get started with the detention hearing, if that's agreeable with
3 everyone.

4 MR. FOWLER: Yes, Your Honor, it's fine.

5 MR. KETCHMARK: Yes, Your Honor, that's fine with the
6 Government as well.

7 THE COURT: All right. And so, today, does the
8 Government have any evidence that they are prepared to offer?

9 MR. KETCHMARK: I think, Your Honor, I've had an
10 opportunity to speak with Mr. Fowler. It's my belief that the
11 Pretrial Service Report has been reviewed by both Mr. Fowler and
12 his client, as well as by the Government, and I think there would
13 be a joint stipulation as to the facts contained in the Pretrial
14 Service Report.

15 MR. FOWLER: That is true, Your Honor. And we join in
16 the proffer of that. My client has looked at it, and we believe
17 it's accurate.

18 THE COURT: All right. Any other evidence -- I will
19 make a note of that, that the Court can consider the Pretrial
20 Services Report. Any other evidence that the parties are
21 prepared to either offer or stipulate to today?

22 MR. KETCHMARK: The only other thing that the Government
23 would ask, Your Honor, is that the Court take judicial notice of
24 the Indictment that was handed down and returned on February 3rd
25 of 2010 as well.

1 THE COURT: Any objection to that?

2 MR. FOWLER: No objection. Maybe I'm jumping ahead. We
3 were going to, I think, unseal that and probably the case caption
4 but I'll --

5 THE COURT: Yeah, we'll talk about that in a minute.
6 But I think those of us here know the document that we're
7 speaking of, and I take it then you have no objection to the
8 Court also taking note of the allegations in the Indictment.

9 MR. FOWLER: No objection.

10 THE COURT: All right. Any other evidence then today
11 besides those two items?

12 MR. KETCHMARK: No, Your Honor.

13 THE COURT: All right. Then, at the defendant's
14 request, we are continuing the detention hearing until March 1st.
15 And I don't remember. Did we agree on a time?

16 MS. GICINTO: One-thirty.

17 THE COURT: One-thirty? March 1st at 1:30 to conclude.
18 And that would be evidence that either side wants to offer either
19 for, in favor of detention or opposing detention. Now, Mr.
20 Fowler alluded to another issue. We've had a lot of discussions
21 about the nature of this case. The defendant -- the Indictment
22 was originally filed under seal, and at the time of the first
23 appearance, the Government had asked that it remain under seal.
24 A series of motions directed to why the case should remain under
25 seal were filed, and those motions will remain under seal. But

1 it's my understanding at this point, the Government has no
2 objection to the Court unsealing the Indictment and processing it
3 in accordance with the normal procedures.

4 MR. KETCHMARK: That's correct, Your Honor.

5 THE COURT: And I think anything that has, other than
6 the Indictment that was filed under seal, will remain under seal.
7 But from this point forward, when we have proceedings, it will be
8 up to either defense counsel or Government counsel to determine
9 if something's going to be presented at a hearing that would be
10 of a nature that should not be shared publicly, and if so, you
11 would then either have to ask for a particular witness,
12 particular testimony or a particular proceeding to be under seal.
13 And the Court would address it as it would in any other
14 proceeding. And I take it that's agreeable to both parties.

15 MR. KETCHMARK: It is with the Government, Your Honor.

16 MR. FOWLER: It is with us also, Your Honor.

17 THE COURT: I think that leaves than for today the
18 arraignment. Mr. Fowler, even at the time of the initial
19 appearance, I did not read the Indictment verbatim to the
20 defendant. It's approximately 30 pages long. I did summarize
21 briefly the counts and the penalties. Is there any request that
22 we read it today here in court?

23 MR. FOWLER: No, Your Honor, we would waive reading.
24 Mr. Quazzani's had it for approximately a week. He has read it
25 at least twice. I reviewed it count by count with him prior to

1 coming down here today. He's well aware of the charges and the
2 penalties.

3 THE COURT: All right. I appreciate that. Let me just
4 then, as part of the arraignment, briefly state that it is a 33-
5 count Indictment. It alleges bank fraud, money laundering,
6 interstate fraud and false statements to government agencies. It
7 also contains forfeiture allegations. The bank fraud charges,
8 Counts One through Sixteen, Twenty-Nine and Thirty, all carry a
9 penalty of not more than 30 years in prison, not more than a \$1
10 million fine, not more than five years supervised release. The
11 money laundering counts under 18 U.S.C. Section 1956 in Counts
12 Nineteen -- I'm sorry -- Counts Seventeen, Nineteen, Twenty-One,
13 Twenty-Three and Twenty-Seven, carry a penalty of not more than
14 20 years in prison, not more than a \$500,000 fine and not more
15 than three years supervised release. The money laundering
16 charges under 18 U.S.C. 1957, in Counts Eighteen, Twenty, Twenty-
17 Two, Twenty-Four and Twenty-Eight carry a penalty of not more
18 than ten years in prison, not more than a \$250,000 fine, not more
19 than three years supervised release. The charges of interstate
20 fraud in Counts Twenty-Five and Twenty-Six carry the very same
21 penalty that I just read for Counts Eighteen, Twenty, Twenty-Two,
22 Twenty-Four and Twenty-Eight. And Counts Thirty-One through
23 Thirty-Three, the false statements to a government agency,
24 contain a penalty, each count of not more than five years, not
25 more than a \$250,000 fine and not more than three years

1 supervised release. There are allegations of forfeiture. In
2 addition, each count carries a \$100 mandatory special assessment.
3 Let me remind you that you have the right to remain silent. You
4 can not be compelled to make a statement. If you make a
5 statement, plan that it would be used against you. You have the
6 right to hire a lawyer that you choose and pay for. You've
7 chosen to do that in this case. Had you been unable to hire a
8 lawyer, then I would have appointed one to represent you free of
9 charge. With respect to the issue of release on bond, the
10 Government is asking for detention. Today, we've had two pieces
11 of information offered towards the motion for detention, and we
12 will resume to take up any additional evidence to be offered on
13 the detention versus release issue March 1st at 1:30. Mr.
14 Fowler, having advised the defendant of the charge and the
15 penalty and his rights, is he prepared to enter a plea?

16 MR. FOWLER: Yes, Your Honor. He'd plead not guilty to
17 all counts.

18 THE COURT: The Court will direct that a not guilty plea
19 be entered on defendant's behalf. This case is set for trial on
20 the March 22nd docket. And I'm wondering if the parties -- I
21 know it doesn't give you a lot of time -- but if you'll be in a
22 position to talk about scheduling issues at the March 1st
23 continuation of the detention hearing?

24 MR. KETCHMARK: That would be fine with the Government,
25 Your Honor.

1 MR. FOWLER: I agree, Your Honor.

2 THE COURT: All right. Is there anything further that
3 we need to address today?

4 MR. KETCHMARK: Not on behalf of the Government, Your
5 Honor.

6 MR. FOWLER: No, Your Honor, except just thank the Court
7 for its courtesy. I know I had a five-day continuance before we
8 got here, and I appreciate it very much.

9 THE COURT: All right. We'll be in recess.

10 (Off Record Talking)

11 THE COURT: Yes, and I hope I indicated, and maybe I
12 didn't -- I did sign the paperwork up here -- but the courtroom
13 deputy indicates I do need to say on the record that we're
14 unsealing the Indictment. I thought I had, but if I didn't, I
15 would indicate we're doing so at this time, processing it in
16 accordance with our normal procedures.

17 MR. KETCHMARK: Thank you.

18 MR. FOWLER: Thank you.

19 THE COURT: All right.

20 (Court Adjourned at 2:20 p.m.)
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5 I certify that the foregoing is a correct transcript
6 from the electronic sound recording of the proceeding in the
7 above-entitled matter.

8
9 /s/ Lissa C. Whittaker
Signature of transcriber

January 11, 2011
Date